IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.192 OF 2006

Datar Switchgear Ltd. & Anr. .. Petitioners

V/s

Commissioner of Central Excise
and Customs, Nasik & Anr. .. Respondents

Shri.Chirag Balsara i/b. Mohana Nair Assocaites for the Petitioners.
Shri.M.I.Sethana, Sr. Counsel with Shri A.M.Sethana for the Respondents.

CORAM : DR.S.RADHAKRISHNAN &
J.P.DEVADHAR, JJ.

DATE : 7TH FEBRUARY, 2006.

P.C.:

1. Heard the learned Counsel for the Petitioners and the learned Counsel for the Respondent Nos.1 and 3. By this petition, the Petitioners are challenging the order dated 31st October, 2005 whereby the learned CESTAT has directed the Petitioner to make a pre-deposit amount of Rs.25,00,000/-. The learned Counsel for the Petitioners has pointed out that in an almost identical facts and circumstances, the learned Tribunal in **Terna Shetkari Sahakari Sakhar Karkhana Ltd. Vs. CCE, Aurangabad - 2001 (138) - E.L.T. - 1225** has considered this issue which was in favour of the Applicants therein.

2. Having regard to the facts and circumstances of the case the learned Counsel for the Petitioners seeks leave to withdraw the petition with the liberty to approach before the learned CESTAT for modification of the aforesaid order dated 31st October, 2005. In view thereof the petition is hereby allowed to be withdrawn and stands dismissed as such with the aforesaid liberty to the Petitioners to approach before the CESTAT for modification. The learned Counsel for the Petitioners states that the Petitioners will move the CESTAT within a period of two weeks for the aforesaid modification with regard to the order dated 31st October, 2005.

(DR.S.RADHAKRISHNAN,J.)

(J.P.DEVADHAR,J.)